

REMARKS

Telephone Interview

Applicant thanks the Examiner for the telephone interview on October 19, 2010 with Applicant's undersigned representative. The Examiner agreed in the interview to enter the amendments presented in this paper and to telephone Applicant's undersigned representative if the amendments presented in this paper do not place the pending claims in condition for allowance in order to discuss and agree upon an Examiner's amendment which will place the pending claims in condition for allowance.

Status of the Claims

The present Office Action addresses claims 1-5, 7-21, 23, 25, and 27-35, however claims 13, 14, 19, 20, 24, and 32 are withdrawn. Remaining claims 1-5, 7-12, 15-18, 21, 23, 25, 27-31 and 33-35 stand rejected. Applicant respectfully requests reconsideration in view of the remarks herein.

Status of Previously Filed Information Disclosure Statements

Applicant respectfully requests the Examiner to consider and initial the references cited in the Information Disclosure Statement filed June 17, 2010 to ensure that these references are made of record and appear among the "References Cited" on any patent to issue from this application.

Amendments to the Claims

Claim 1 is amended to recite a *polyaxial* fastening element adapted to extend distally through the bore to mate the spinal anchoring element to bone. Claim 21 is amended to recite at least one of the spinal anchoring devices being adapted to receive a *polyaxial* fastening element for mating the spinal anchoring device to bone.

Support for these amendments can be found throughout the specification and drawings, for example in Figure 1 and in paragraph [0038]. No new matter is added.

Rejections Pursuant to 35 U.S.C. § 103

Claims 1-5, 7-9, 12, 15, 18, 21, 23, 25, 27-31, 53, and 54 are rejected pursuant to 35 U.S.C. §103(a) as being made obvious by U.S. Patent No. 6,626,906 of Young ("Young") in view of U.S. Patent No. 5,613,968 of Lin ("Lin") and as evidenced by U.S. Patent No. 6,136,002 of Shih et al.

("Shih"). Claims 10, 11, and 33 are rejected pursuant to 35 U.S.C. §103(a) as being made obvious by Young in view of Lin and further in view of Shih. Claims 16, 17, 34, and 35 are rejected pursuant to 35 U.S.C. §103(a) as being made obvious by Young in view of Lin and further in view of U.S. Patent Publication No. 2004/0236327 of Paul et al. ("Paul").

In the October 19, 2010 interview, the Examiner agreed that claims 1 and 21 as amended by this paper distinguish over Young, Lin, Shih, and Paul, alone or in any combination. Accordingly, all claims are now in condition for allowance, and allowance thereof is respectfully requested.

Conclusion

Accordingly, all claims are now in condition for allowance, and allowance thereof is respectfully requested. Applicant's amendment of the claims does not constitute a concession that the claims are not allowable in their unamended form. The Examiner is encouraged to telephone the undersigned attorney for Applicant if such communication is deemed to expedite prosecution of this application.

No extension of time is believed to be due with this filing. In the event that a petition for an extension of time is required to be submitted at this time, Applicant hereby petitions under 37 C.F.R. 1.136(a) for an extension of time for as many months as are required to ensure that the above-identified application does not become abandoned.

The Director is hereby authorized to charge any deficiency in the fees filed with this paper, asserted to be filed with this paper or which should have been filed with this paper to our Deposit Account No. 141449, under Order No. 101896-251.

Dated: October 21, 2010

Respectfully submitted,

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